

District
Director

Person to Contact

Telephone Number

Room/Reply To

Date

Dear Applicant:

We have considered your application for recognition of exemption from Federal Income Tax under Section 501(c)(6) of the Internal Revenue Code.

Information submitted with your Form 1024 application indicates you were incorporated on [REDACTED] under the nonprofit corporation laws of the State of [REDACTED].

Your purposes as stated in your Articles of Incorporation are, in part, as follows: "... to aid materially in the promotion of the business interest of the tenants, merchants and occupants of that facility ([REDACTED]) and the surrounding area; to engage in cooperative efforts to promote, protect and foster the development of the businesses, services, interest and welfare of the tenants, merchants and occupants of the [REDACTED]..."

Your activities as described in Form 1024 include advertising in local newspapers, selling T-shirts ([REDACTED] printed on them) and displaying signs in the market area to attract customers. In response to a developmental letter sent to you dated [REDACTED] you wrote that you have also taken up collections to feed the poor, hired a person to play Santa Claus at Christmas for the children and encouraged nonprofit organizations to hold fairs in the Market.

There are [REDACTED] members in the Market most of whom do not pay dues according to your correspondence. Dues are [REDACTED] dollars annually per stall. Maximum dues are [REDACTED] dollars annually regardless of how many stalls a member operates. Two other major sources of income are the sale of the T-shirts previously mentioned and an annual dance for [REDACTED] merchants and families. The largest expenditure of your organization has consistently been advertising of the merchants' products. While the merchants are not individually named, obviously the only people that will benefit are those who rent stalls in the Market. Other expenses are connected to the cost of the T-Shirts and fundraising expenses of the dance.

Members of your organization and renters at the Market in general sell many different types of products -- eggs, pets, flowers, fish, bakery products -- as well as fresh produce. This is apparent from the copies of newspaper advertisements you sent. [REDACTED] occupies an area of approximately four square blocks and is operated by the city of [REDACTED].

Section 501(c)(6) of the Internal Revenue Code provides for exemption of "business leagues, chambers of commerce, real estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual."

Section 1.501(c)(6)-1 of Income Tax Regulations reads as follows:

"BUSINESS LEAGUES, CHAMBERS OF COMMERCE, REAL ESTATE BOARDS AND BOARDS OF TRADE. A business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. It is an organization of the same general class as a chamber of commerce or board of trade. Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons. An organization whose purpose is to engage in a regular business of a kind ordinarily carried on for profit, even though the business is conducted on a cooperative basis or produces only sufficient income to be self-sustaining, is not a business league. An association engaged in furnishing information to prospective investors, to enable them to make sound investments, is not a business league, since its activities do not further any common business interest, even though all of its income is devoted to the purpose stated. A stock or commodity exchange is not a business league, a chamber of commerce, or a board of trade within the meaning of section 501(c)(6) and is not exempt from tax. Organizations otherwise exempt from tax under this section are taxable upon their unrelated business taxable income. See sections 511 to 515, inclusive and the regulations thereunder".

Rev. Rul. 55-444, 1955-2 C.B. 258 states that an organization formed to promote the business of a particular industry and which carries out its purposes primarily by conducting a general advertising campaign to encourage the use of products and services of the industry as a whole is entitled to exemption from Federal Income Tax as a business league under Internal Revenue Code 501(c)(6), notwithstanding the fact that such advertising to a minor extent constitutes the performance of particular services for its members.

Rev. Rul. 59-391, 1959-2 C.B. 151 provides that an organization which restricts its membership to individuals, firms, associations, and corporations, each representing a different trade, business, occupation, or profession, and which is organized for the purpose of exchanging information on business prospects, its members having no common business interest other than a desire to increase their individual sales, is not entitled to exemption from Federal Income Tax as a business league. Distinguished by Rev. Rul. 70-641, 1970-2 C.B. 119.

Rev. Rul. 73-411, 1973-2 C.B. 180 provides that a shopping center merchants' association whose membership is restricted to, and required of, the tenants of a one owner shopping center and the common lessor, and whose activities include promotional affairs and advising to publicize the center, does not qualify as a business league or chamber of commerce under Internal Revenue Code Section 501(c)(6) because these activities are directed to promoting the general business interest of its members only, rather than of the industry as a whole.

On the basis of the evidence presented, it is concluded that your members, whether or not they pay dues, have no common business interest other than a mutual desire to increase their individual sales. It appears that the activities are not directed to the improvement of one or more lines of business, but rather to the promotion of the private interests of the members. Membership is restricted to those who rent stalls at the Market. Their diversity of interests cannot be compared to a local board of trade or chamber of commerce since such organizations could not limit their membership to a particular four square block area of a community. For an organization to meet the requirements for exemption as a chamber of commerce or business league within the meaning of Section 501(c)(6) of the Code, the advertising in which the organization engages must benefit business in the community generally, or an industry as a whole as described in Rev. Rul 55-444, C.B. 1955-2, 258.

We have concluded that you do not qualify for exemption from Federal Income Tax as an organization described in Section 501(c)(6) of the Internal Revenue Code. Accordingly, you are required to file Federal income tax returns on Form 1120, annually with your District Director.

If you do not agree with these conclusions, you may within thirty days from the date of this letter, file a brief of the facts, law and arguments (in duplicate) which clearly sets forth your position. In the event you desire an oral discussion of the issues, you should so indicate in your submission. A conference will be arranged in the Regional Office after you have submitted your brief to the Chicago District Office and we have had an opportunity to consider the brief and it appears that the conclusions reached are still unfavorable to you. Any submission must be signed by one of your principal officers. If the matter is to be handled by a representative, the Conference and Practice Requirements regarding the filing of a power of attorney and evidence of enrollment to practice must be met. We have enclosed Publication 892, Exempt Organization Appeal Procedures for Adverse Determinations, which explains in detail your rights and procedures.

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If you agree with this determination, please sign and return the enclosed Form 6018.

Sincerely yours,

██████████
District Director

Enclosures:
Form 6018
Publication 892